

**PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT**

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**DATE:** April 5, 2001 (Continued from March 8, 2001)

**TO:** Orange County Zoning Administrator

**FROM:** Planning and Development Services Department/Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA00-00142 for Use Permit, Variance and Site Development Permit

**PROPOSAL:** The applicant proposes to construct a new one-story, 3,000 square foot single-family dwelling on a 32,500 square foot lot in the E4 "Small Estates" District. In conjunction with this new dwelling, the applicant requests a Use Permit to have a 600 square foot guesthouse over a new three-car garage. A Variance is requested to allow a side yard setback of 10 feet for one side of the property when a side yard setback of 14.7 feet is required for this site. A Site Development permit is required for proposed grading in excess of 500 cubic yards on a site with a slope greater than 15 percent.

**LOCATION:** In the Lemon Heights/North Tustin area at 1872 La Cuesta Drive, Santa Ana. Third Supervisorial District

**APPLICANT:** Jack Selman, property owner

**STAFF** William V. Melton, Project Manager  
**CONTACT:** Phone: (714) 834-2541 FAX: (714) 834-4652

**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA00-0142 subject to the attached Findings and Conditions of Approval.

**BACKGROUND:**

This proposal was continued from the scheduled March 8, 2001 hearing because the required environmental documentation was not completed. The subject site is 32,500 square feet in area, measuring approximately 147 feet wide by 220 feet deep. It is a combination of two legal building sites, Lots 19 and 20 of Tract 670. The site is a through lot with the streets of La Cuesta Drive at the front and Foothill Blvd at the rear. Access to the site is from La Cuesta Drive via a driveway through an easement. The subject site has a graded pad in the center of the site and is currently undeveloped. The site slopes down from La Cuesta Drive to Foothill Blvd. with an elevation change of 86 feet, or an average slope of over 39 percent.

The sites E4 zoning requires a side yard setback of 10 percent of the lot's width. For this site, the side yard setback requirement is 14.7 feet. The existing pad area on the site is small and the balance of the property has steep slopes. In order to construct the proposed one-bedroom dwelling, to provide adequate parking

and to provide a small outdoor area, the applicant is requesting a side yard setback variance to permit a setback of 10 feet on the west property line.

The applicant proposes to construct a 600 square feet guesthouse near the east property line. The guesthouse has one-bed room and one bathroom. The proposed guesthouse is located above a three-car garage. Below the garage is an area that the applicant indicates that will be used as a gym. The garage and basement gym are setback 10 feet from the property line and the guesthouse is offset with a setback 15 feet from the east property line. The guesthouse setback is consistent with the zoning district regulations.

A Site Development Permit is also requested for this proposal because of the grading required. The grading plan calls for a fill at 1,500 cubic yards and cut at 1,000 cubic yards. Included in the grading is are retaining walls for the proposed driveway, on the side property lines and at the rear of the house. The retaining wall at the rear of the house is shown at height of approximately 18 to 20 feet above grade. Fill will be placed behind the retaining wall to create a larger building pad and provide an area for a small swimming pool. Walls proposed in the setback areas to not exceed the permitted height permitted by Zoning Code Section 7-9-137.5 "Fences and walls".

#### **SURROUNDING LAND USE:**

The project site is zoned 125-E4 "Small Estates"-20,000 District. The "125" represents the minimum lot width in feet; and, the "20,000" represents the minimum building site area in square feet. The surrounding properties are also zoned 125-E4-20,000 District with lots varying in size from 15,000 square feet to over an acre. The surrounding land use is single-family residential.

#### **REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to six County Divisions.

As of the writing of this staff report, no comments raising substantial issues with the project have been received from other County divisions. The Orange County Fire Authority originally expressed a concern with the proposed driveway. These concerns have been resolved and the Fire Authority is satisfied that with certain revision to the site plan the proposal will meet fire requirements.

Prior to the March 8, 2001 Zoning Administrator hearing, the property owners on the north side of La Cuesta Drive contacted hearing staff. They indicated that they did not have issues with the proposal, however they were concerned that tall trees would be planted on the applicant's property, which could affect their existing views. The applicant indicated to staff that he had no plans for planting tall trees on the La Cuesta Drive frontage.

**CEQA COMPLIANCE:**

Negative Declaration No. PA000142 (Exhibit 2) has been prepared for this proposal. It was posted for public review on March 8, 2001 and became final on March 28, 2001. Prior to project approval, this ND must be found adequate to satisfy the requirements of CEQA by the Zoning Administrator. Appendix A contains the required CEQA Finding.

**DISCUSSION/ANALYSIS:**

The subject proposal requires approval of three separate discretionary permits: Use Permit for a guesthouse; a Site Development Permit for grading; and, a Variance for a side yard setback. Regarding a guesthouse, Zoning Code Section 7-9-146.5 regulates their use and location on the property. In general, these regulations permit a guesthouse (or second residential unit) on a property where a single-family dwelling exists, provided the guesthouse does not exceed 1,200 square feet (when detached), it is not located within a setback area, and, one additional parking space (covered or uncovered) is provided.

While the primary single-family unit does not exist at this time, the proposed guesthouse will be constructed concurrently with the new single-family dwelling. In past requests for concurrent construction of a new single-family and a new guesthouse or second residential unit, staff has included a project condition of approval that a use and occupancy permit be issued for the new main dwelling prior to the issuance of a use and occupancy permit for the guesthouse or second residential unit. Condition of Approval No. 18 address this order of use and occupancy permits for this proposal.

The proposed guesthouse meets all other requirements contained in Section 7-9-146.5: the proposed guesthouse unit is 600 square feet in living area, it is not located in a setback area and the required parking space is located in the proposed three-car garage (only two covered parking spaces required for the main single-family dwelling). While the structure on which the guesthouse is located is setback 10 feet from the east side property line, the guesthouse is off-set from this structure by an additional 5 feet. The guesthouse is therefore setback 15 feet from the side property line and the district required setback is 14.7 feet.

Regarding the proposed grading, it appears that grading proposed is minimal when compared to the overall topography of the lot. The grading proposed is to provide a driveway access to the street and to provide a reasonable building pad area. The grading does not appear to be out of line with other residential construction projects with property slopes similar to the applicant's property. The only area of concern staff sees is the proposed retaining wall at the rear of the new dwelling. This wall has a proposed height of between 18 to 20 feet high. This height could be an aesthetics concern to property owners living to the south of the site off of Foothill Blvd. To address this issue, staff is recommending Condition of Approval No. 16 requiring the applicant to provide a landscaping plan for the front of the wall that would help buffer any impact the height of the retaining wall may have.

Lastly, there is the applicant's request for a side yard setback variance. The applicant is requesting a setback 10 feet from a side yard when a setback of 14.7 feet is required for this E4 zoned lot. A standard residential side yard setback, like the County R1 District, has a requirement for a 5 feet side yard setback.

The purpose of the greater side yard setbacks in the E4 zone is to provide for greater open space between dwelling units than is typical for smaller standard R1 zoned lots. Another issue with side yard setback variances is that of privacy between dwelling units. This proposal should not pose a privacy issue. First, the living area of residence on the adjacent property is located over 50 feet from the side property line with a garage located between the residence and the side property line. Second, the proposed dwelling unit is only one story in height. Additionally, except for a 2 ½ feet wide window in the southwest corner of the dwelling, there are no additional windows on the west side of the building facing the adjoining property. It should be noted that the applicant submitted a list of numerous other variances that have been approved in the vicinity of the project site.

Staff did not identify any significant planning issues with the proposed variance request. However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges that are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these special variance findings. The special circumstances for approving the variance requested for this proposal is in Finding No. 10 of Appendix A.

In summary staff's review of the proposal determined that there is adequate justification to approve the applicant's proposal. In summary, 1) the proposed guesthouse complies with all development standards; 2) the grading proposed is minimal for the topography and provides adequate site access; 3) there is adequate justification and precedence for the side yard variance. Staff is of the opinion that the proposal is compatible and consistent and compatible with the surrounding development. Staff supports the applicant's proposal and makes a recommendation as follows.

**RECOMMENDED ACTION:**

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA00-0142 for Use Permit, Variance and Site Development Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief  
CPSD/Site Planning Section

WVM

Folder: C/My Documents/Use Permit 2000/PA00-0142 Staff

**APPENDICES:**

- A. Recommended Findings
- B. Recommended Conditions of Approval

**EXHIBITS:**

1. Applicant's Letter of Explanation
2. Environmental Documentation
3. Site Plans and site photos

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.